

Union Calendar No. 94

111TH CONGRESS
1ST SESSION

H. R. 1018

[Report No. 111–177]

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. RAHALL (for himself and Mr. GRIJALVA) introduced the following bill;
which was referred to the Committee on Natural Resources

JUNE 23, 2009

Additional sponsors: Ms. BORDALLO, Mrs. MALONEY, Mr. WAXMAN, Mr. FARR, Mr. KUCINICH, and Mr. GEORGE MILLER of California

JUNE 23, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 12, 2009]

A BILL

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Restore Our American*
5 *Mustangs Act”.*

6 **SEC. 2. REFERENCE.**

7 *Except as otherwise expressly provided, whenever in*
8 *this Act an amendment or repeal is expressed in terms of*
9 *an amendment to, or repeal of, a section or other provision,*
10 *the reference shall be considered to be made to a section or*
11 *other provision of the Act of December 15, 1971 (commonly*
12 *known as the “Wild Free-Roaming Horses and Burros Act”;*
13 *16 U.S.C. 1331 et seq.).*

14 **SEC. 3. POLICY.**

15 *The first section is amended by striking “in the area*
16 *where presently found, as”.*

17 **SEC. 4. DEFINITIONS.**

18 *Section 2 (16 U.S.C. 1332) is amended—*

19 (1) *in paragraph (b), by inserting “born or*
20 *present” after “unclaimed horses and burros”;*

21 (2) *in paragraph (c), by striking “which does*
22 *not exceed their known territorial limits,”;*

23 (3) *in paragraph (d)—*

24 (A) *by inserting “and any associated foals”*
25 *after “his mares”; and*

1 (B) by striking “and” after the semicolon;

2 (4) in paragraph (e), by striking the period and
3 inserting a semicolon;

4 (5) in paragraph (f)—

5 (A) by striking “(1) which” and all that fol-
6 lows through “(2)”;

7 (B) by inserting “, in accordance with sec-
8 tion 3(d),” after “from an area”; and

9 (C) by striking the period at the end and
10 inserting a semicolon; and

11 (6) by adding at the end the following:

12 “(g) ‘thriving natural ecological balance’ means
13 a condition that protects ecosystem health, the ecologi-
14 cal processes that sustain ecosystem function and a
15 diversity of life forms, including those species listed
16 under the Endangered Species Act of 1973, and fur-
17 ther ensures that wild horses and burros, livestock and
18 wildlife species are given fair consideration in the al-
19 location of resources on those lands where said species
20 are authorized or managed consistent with the re-
21 quirements of the Federal Land Policy and Manage-
22 ment Act of 1976 (Public Law 94–579) and other ap-
23 plicable law; and

24 “(h) ‘fatally injured or terminally ill’ means an
25 animal exhibiting one or more of the following:

1 “(1) *A hopeless prognosis for life.*

2 “(2) *A chronic or incurable disease, injury,*
 3 *lameness, or serious physical defect (including*
 4 *severe tooth loss or wear, club foot, and other se-*
 5 *vere congenital abnormalities).*

6 “(3) *A condition requiring continuous*
 7 *treatment for the relief of pain and suffering in*
 8 *a domestic setting.*

9 “(4) *An acute or chronic illness, injury,*
 10 *physical condition or lameness that would pre-*
 11 *clude an acceptable quality of life for the foresee-*
 12 *able future.”.*

13 **SEC. 5. INVENTORY AND DETERMINATIONS.**

14 (a) *Section 3(a) (16 U.S.C. 1333(a)) is amended as*
 15 *follows:*

16 (1) *By striking “is authorized and directed to”*
 17 *and inserting “shall—*

18 *“(1)”.*

19 (2) *By striking “, and he may” and inserting a*
 20 *semicolon.*

21 (3) *By inserting before “designate” the following:*

22 *“(2)”.*

23 (4) *In paragraph (2) (as so designated)—*

24 (A) *by striking “their” and inserting “the”;*

1 (B) by inserting “of wild free-roaming
2 horses and burros” after “preservation”;

3 (C) by striking “wherein” and inserting
4 “where”;

5 (D) by striking “deems” and inserting “,
6 considers”; and

7 (E) by striking “desirable. The Secretary
8 shall” and inserting “desirable;
9 “(3)”.

10 (5) In paragraph (3) (as so designated), by strik-
11 ing the period after “public lands” and inserting a
12 semicolon.

13 (6) By striking “He shall” and inserting the fol-
14 lowing:

15 “(4)”.

16 (7) In paragraph (4) (as so designated), by strik-
17 ing “of this Act.” and inserting “of this Act;”.

18 (8) By striking “All” and inserting the fol-
19 lowing:

20 “(5) ensure that”.

21 (9) In paragraph (5) (as so designated)—

22 (A) by inserting “related to wild free-roam-
23 ing horses and burros are” after “activities”;

24 (B) by striking “shall be” both places it ap-
25 pears;

1 (C) by inserting “relevant State” after “in
2 consultation with the”;

3 (D) by striking “of the State wherein such
4 lands are located”;

5 (E) by striking “which inhabit such lands”;
6 and

7 (F) by striking the period after “endangered
8 wildlife species” and inserting a semicolon.

9 (10) By striking “Any” and inserting the fol-
10 lowing:

11 “(6) ensure that any”.

12 (11) In paragraph (6) (as so designated)—

13 (A) by striking “on any such lands shall
14 take” and inserting “are made after taking”;
15 and

16 (B) by striking “which inhabit such lands.”
17 and inserting “; and”.

18 (12) At the end of such subsection, add the fol-
19 lowing:

20 “(7) ensure that the acreage available for wild
21 and free-roaming horses and burros shall never be less
22 than the acreage where wild and free-roaming horses
23 and burros were found in 1971.”.

24 (b) Subsection (b)(1) of section 3 is amended as fol-
25 lows:

1 (1) *By striking “(b)(1) The Secretary shall” and*
2 *inserting the following:*

3 “(b) *In order to determine if a thriving natural eco-*
4 *logical balance exists with regards to wild free-roaming*
5 *horses and burros, the Secretary shall—*

6 “(1)”.

7 (2) *In paragraph (1) (as so designated)—*

8 (A) *by striking “a current” and inserting*
9 *“an”; and*

10 (B) *by striking the period after “public*
11 *lands” and inserting a semicolon and the fol-*
12 *lowing:*

13 “(2) *update the inventory every two years; and*

14 “(3) *make the inventory available to the public*
15 *on the Website of the Bureau of Land Management.”.*

16 (3) *By striking “The purpose” and all that fol-*
17 *lows through “the Secretary” and inserting the fol-*
18 *lowing:*

19 “(c) *In order to better manage and protect wild free-*
20 *roaming horses and burros, and to achieve and maintain*
21 *a thriving natural ecological balance, the Secretary, not*
22 *later than one year after the date of the enactment of this*
23 *section, shall take the following actions:*

24 “(1) *Adopt and employ the best scientific, peer-*
25 *reviewed methods to accurately estimate wild free-*

1 *roaming horse and burro populations on public lands*
2 *for purposes of the inventory required in subsection*
3 *(b).*

4 *“(2) Develop a policy and standards, with public*
5 *involvement, for setting consistent, appropriate man-*
6 *agement levels on public lands, based on scientifically*
7 *sound methodologies.*

8 *“(3) Provide a public process, including a period*
9 *for notice and comment, for finalizing appropriate*
10 *management level standards.*

11 *“(4) Publish and distribute these standards to*
12 *each field office so that the methodology for estimating*
13 *population and determining appropriate management*
14 *levels is consistent across public lands.*

15 *“(5) Train Federal personnel on the use of these*
16 *standard techniques to estimate population and deter-*
17 *mine appropriate management levels.”.*

18 *(4) By striking “shall consult with” and insert-*
19 *ing the following:*

20 *“(6) Develop and finalize the standards in con-*
21 *sultation with—”.*

22 *(5)(A) By inserting “(A)” before “the United*
23 *States Fish”.*

24 *(B) By inserting “(B)” before “wildlife agen-*
25 *cies”.*

1 (C) *By striking “wherein” and inserting*
2 *“where”.*

3 (D) *By striking “such individuals” and insert-*
4 *ing “(C) individuals”.*

5 (E) *By striking “such other individuals” and in-*
6 *serting “(D) individuals”.*

7 (F) *By striking “he” and inserting “the Sec-*
8 *retary”.*

9 (G) *By inserting “to” after “determines”.*

10 (6) *In subparagraphs (A) through (C) of para-*
11 *graph (6) (as so designated), by striking each comma*
12 *and inserting a semicolon.*

13 (7) *In subparagraphs (A) through (D) of para-*
14 *graph (6) (as so designated), by moving the margins*
15 *of such subparagraphs 4 ems to the right.*

16 (8) *After paragraph (6) (as so designated), by*
17 *inserting the following:*

18 “(7) *Identify new, appropriate rangeland for*
19 *wild free roaming horses and burros, including use of*
20 *land acquisitions, exchanges, conservation easements,*
21 *voluntary grazing buyouts, and agreements with pri-*
22 *rate landowners to allow for the federally supervised*
23 *protection of wild horses and burros on private lands,*
24 *except that the Secretary shall assess the effects of new*
25 *range for wild free-roaming horses and burros on*

1 *rangeland health, riparian zones, water quality, soil*
2 *compaction, seed bed disturbance, native wildlife, and*
3 *endangered or threatened species and transmit the re-*
4 *sults of the assessment to the Committee on Natural*
5 *Resources of the House of Representatives and the*
6 *Committee on Energy and Natural Resources of the*
7 *Senate.*

8 *“(8) Establish sanctuaries or exclusive use areas,*
9 *except that the Secretary shall assess the effects of*
10 *sanctuaries or exclusive use areas for wild free-roam-*
11 *ing horses and burros on rangeland health, riparian*
12 *zones, water quality, soil compaction, seed bed dis-*
13 *turbance, native wildlife and endangered or threat-*
14 *ened species and transmit the results of the assessment*
15 *to the Committee on Natural Resources of the House*
16 *of Representatives and the Committee on Energy and*
17 *Natural Resources of the Senate.*

18 *“(9) In identifying or designating any new*
19 *rangeland, or establishing any sanctuary or exclusive*
20 *use area for wild free-roaming horses and burros, the*
21 *Secretary of the Interior and the Secretary of Agri-*
22 *culture shall take into account and avoid any poten-*
23 *tial conflicts with wind, solar, geothermal, oil, nat-*
24 *ural gas, energy transmission, and mineral resources*

1 *potential of the lands affected by the identification,*
2 *designation, or establishment.*

3 “(10) *Research, develop, and implement en-*
4 *hanced surgical or immunocontraception sterilization*
5 *or other safe methods of fertility control.”.*

6 *(c) In subsection (b) of section 3, by striking “(2)*
7 *Where” and inserting “(d) If”.*

8 *(d) In subsection (d) (as so designated) of section 3—*

9 *(1) by striking “determines” and all that follows*
10 *through “horses and burros to be” in subparagraph*
11 *(B) and inserting “has exhausted all practicable op-*
12 *tions for maintaining a thriving natural ecological*
13 *balance on the range, the Secretary may provide that*
14 *wild free-roaming horses and burros are”;*

15 *(2) by striking “for which he determines” the*
16 *first place it appears and inserting “so long as the*
17 *Secretary has determined”;*

18 *(3) by striking “and for which he determines he*
19 *can assure” and inserting “and the Secretary can en-*
20 *sure”;*

21 *(4) by striking “(including” and all that follows*
22 *through “That, not” and inserting the following: “by*
23 *requiring that—*

24 *“(1) no”;*

25 *(5) in paragraph (1) (as so designated)—*

1 (A) by striking “animals” the first two
2 places it appears and inserting “wild free-roam-
3 ing horses and burros”;

4 (B) by striking “such” the first place it ap-
5 pears and inserting “the”; and

6 (C) by striking “and” after the semicolon
7 and adding the following:

8 “(2) each individual adopter shall execute an ap-
9 propriate attestation, pursuant to section 1001 of title
10 18, United States Code, affirming that adopted ani-
11 mals and their remains shall not be used for commer-
12 cial purposes; and

13 “(3) wild free-roaming horses and burros may
14 not be contained in corrals or short-term holding fa-
15 cilities for more than 6 months while awaiting dis-
16 position.”; and

17 (6) by striking subparagraph (C) and paragraph
18 (3).

19 (e) Redesignate subsection (c) of section 3 as subsection
20 (e) and in such subsection—

21 (1) by striking “Where excess animals have” and
22 inserting “When a wild free-roaming horse or burro
23 has”;

24 (2) by striking “a period of”;

1 (3) *by striking “is authorized” and inserting*
2 *“shall,”*;

3 (4) *by inserting a comma after “transferee”;*

4 (5) *by striking “to” before “grant”;*

5 (6) *by striking “title to not more than four ani-*
6 *mals to”; and*

7 (7) *by striking “at the end of the one-year pe-*
8 *riod” and inserting “title to that animal”.*

9 (f) *Redesignate subsection (d) of section 3 as subsection*
10 *(f) and in such subsection—*

11 (1) *by striking “Wild” and inserting “(1) Except*
12 *as provided for in paragraph (2), wild”;*

13 (2) *by redesignating paragraphs (1) through (4)*
14 *as subparagraphs (A) through (D), respectively;*

15 (3) *in subparagraph (A) (as so redesignated), by*
16 *striking “(c) except for the limitation of subsection*
17 *(c)(1)” and inserting “(e)”;*

18 (4) *in subparagraph (C) (as so redesignated), by*
19 *striking “(b)” and inserting “(h)”;*

20 (5) *in subparagraph (D) (as so redesignated), by*
21 *striking “; or” and inserting a period; and*

22 (6) *in paragraph (5), by striking “(5)” and all*
23 *that follows through “burro” and inserting the fol-*
24 *lowing:*

25 *“(2) No animal ever covered under this Act”.*

1 (g) *By inserting after section 3(f) (as so redesignated)*
2 *the following:*

3 “(g) *Not later than one year after the date of enact-*
4 *ment of this subsection, for the purposes of carrying out*
5 *a successful wild free-roaming horse and burro adoption*
6 *program the Secretary shall—*

7 “(1) *implement creative and more aggressive*
8 *marketing strategies for the adoption program, in-*
9 *cluding the use of the internet or other media to show-*
10 *case horses and the adoption program;*

11 “(2) *explore public outreach opportunities, in-*
12 *cluding agreements with local and State organiza-*
13 *tions that are using horses for rehabilitation, therapy,*
14 *or prisoner programs;*

15 “(3) *provide resources to properly screen and*
16 *train potential adopters;*

17 “(4) *conduct tours of Bureau of Land Manage-*
18 *ment facilities for interested parties;*

19 “(5) *develop volunteer mentor and compliance*
20 *check programs for assisting the agency in facilitating*
21 *successful adoptions;*

22 “(6) *develop a program through which potential*
23 *adopters may be offered an economic incentive for*
24 *successful completion of the adoption process; and*

1 “(7) take any and all other actions that the Sec-
2 retary determines to be necessary and useful towards
3 expanding the wild horse and burro adoption pro-
4 gram.

5 “(h) The Secretary may not destroy or authorize the
6 destruction of wild free-roaming horses or burros unless the
7 Secretary—

8 “(1) determines that the wild free-roaming horse
9 or burro is terminally ill or fatally injured; and

10 “(2) ensures that the terminally ill or fatally in-
11 jured wild free-roaming horse or burro will be de-
12 stroyed in the most humane manner.

13 “(i) If the immediate health or safety of wild free-
14 roaming horses or burros is threatened, such as in severe
15 drought conditions, the Secretary may temporarily remove
16 animals from the range.

17 “(j) The Secretary may remove from the range wild
18 free-roaming horses and burros determined to be a threat
19 to the health and well being of native plant or wildlife spe-
20 cies.

21 “(k) Except in cases of removal under subsection (d),
22 (i), or (j), if the Secretary removes wild free-roaming horses
23 or burros from an area, the Secretary shall provide a public
24 notice on the Website of the Bureau of Land Management
25 30 days prior to the planned removal.

1 “(l) *The Secretary shall—*

2 “(1) *track the number of wild free-roaming*
3 *horses and burros injured or killed during gathering*
4 *or holding in a centralized database system;*

5 “(2) *determine what information on the treat-*
6 *ment of gathered wild free-roaming horses and burros*
7 *in holding and adopted wild free-roaming horses and*
8 *burros could be provided to the public to help inform*
9 *the public about the treatment of wild free-roaming*
10 *horses and burros; and*

11 “(3) *ensure that such information is easily acces-*
12 *sible on the Website of the Bureau of Land Manage-*
13 *ment.*”.

14 (h) *By striking subsection (e) (relating to sale of excess*
15 *animals).*

16 **SEC. 6. PRIVATE MAINTENANCE.**

17 *Section 4 (16 U.S.C. 1334) is amended—*

18 (1) *by striking “animals removed” and inserting*
19 *“animals returned to public land”; and*

20 (2) *by inserting “pursuant to section 3(h)” after*
21 *“agents of the Secretary”.*

22 **SEC. 7. COOPERATIVE AGREEMENTS.**

23 *Section 6 (16 U.S.C. 1336) is amended by inserting*
24 *“and other private entities” after “landowners”.*

1 **SEC. 8. JOINT ADVISORY BOARD.**

2 *Section 7 (16 U.S.C. 1337) is amended—*

3 *(1) by striking “nine” and inserting “12”;*

4 *(2) by striking “Governments” and all that fol-*
5 *lows “management.” and inserting “Governments and*
6 *shall include at a minimum three representatives of*
7 *the livestock industry; three representatives of the en-*
8 *vironmental community; three representatives of the*
9 *animal protection community; and three scientists*
10 *with expertise in wildlife management, animal hus-*
11 *bandry, or natural resource management.”; and*

12 *(3) by adding at the end the following new sen-*
13 *tence: “Nomination of members of the board shall be*
14 *conducted by public notice and comment in accord-*
15 *ance with the Federal Advisory Committee Act (5*
16 *U.S.C. Appendix) and shall be for a term of four*
17 *years. No individual shall serve more than two con-*
18 *secutive terms.”.*

19 **SEC. 9. CRIMINAL PROVISIONS.**

20 *Section 8 (16 U.S.C. 1338) is amended—*

21 *(1) by striking “Any person who” and inserting*
22 *“(a) Any person who”; and*

23 *(2) in paragraph (4) of subsection (a) (as so des-*
24 *ignated)—*

25 *(A) by striking “except as provided in sec-*
26 *tion 3(e),”;*

1 (B) by inserting “, transports for proc-
2 essing,” after “processes”;

3 (C) by striking “the remains of a” and in-
4 serting “a live or deceased”; and

5 (D) by inserting “for consideration” after
6 “burro”.

7 **SEC. 10. LIMITATION OF AUTHORITY.**

8 Strike section 10 (16 U.S.C. 1339) and redesignate sec-
9 tion 11 as section 10.

10 **SEC. 11. REPORTS.**

11 Section 10 (as so redesignated by section 10 of this
12 Act) is amended as follows:

13 (1) By striking “After the expiration” and all
14 that follows through “thereafter” and inserting
15 “(a)(1) Not later than one year after the date of en-
16 actment of this subsection and annually thereafter”.

17 (2) By striking “will submit to Congress a joint
18 report” and inserting “shall submit to the Committee
19 on Natural Resources of the House of Representatives
20 and the Committee on Energy and Natural Resources
21 of the Senate a joint report”.

22 (3) By striking “he” and inserting “the Secre-
23 taries”.

24 (4) By inserting after subsection (a)(1) (as so
25 designated) the following:

1 “(2) *The report shall also contain the following—*

2 “(A) *the number of acres managed by the Bu-*
3 *reau of Land Management and the USDA Forest*
4 *Service for wild free-roaming horses and burros;*

5 “(B) *the appropriate management levels on pub-*
6 *lic rangelands;*

7 “(C) *a description of the methods used to deter-*
8 *mine the appropriate management levels and whether*
9 *it was applied consistently across the agency;*

10 “(D) *the number of wild free-roaming horses and*
11 *burros on public lands;*

12 “(E) *a description of the methods used to deter-*
13 *mine the wild free-roaming horse and burro popu-*
14 *lation;*

15 “(F) *any land acquisitions, exchanges, conserva-*
16 *tion easements, and voluntary grazing buyouts that*
17 *the Secretary has acquired or pursued for wild free-*
18 *roaming horses and burros;*

19 “(G) *any sanctuaries or exclusive use areas es-*
20 *tablished for wild free-roaming horses and burros;*

21 “(H) *programs established for*
22 *immunocontraception research, development, and*
23 *management level implementation;*

1 “(I) the extent to which fertility control is being
2 used by the Secretary to control the population of
3 wild free-roaming horses and burros;

4 “(J) the percentage of the Bureau of Land Man-
5 agement budget devoted to contraception annually;

6 “(K) the ratio of animals the agency has
7 contracepted and put back on the range; and

8 “(L) which herds have been administered contra-
9 ception and with what results.

10 “(3) Each report submitted under paragraph (2) shall
11 be made available to the public on the Website of the Bureau
12 of Land Management.”.

13 (5) By inserting “(b)” before “The Secretary of
14 the Interior”.

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JUNE 23, 2009

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed